

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

THOMAS D. DeMARTINO,

Plaintiff, Civil No. 11-6326-TC

v.

FINDINGS AND  
RECOMMENDATION

MARION COUNTY, et al.

Defendants.

COFFIN, Magistrate Judge.

By Order (#10) entered November 11, 2011, plaintiff's Application to proceed *in forma pauperis* (#1) was denied without prejudice to file an amended application on a form to be provided by the Clerk of the Court, and the Clerk was directed to send plaintiff an "AO 239 Application to Proceed in District Court Without Prepaying fees or Costs (Long Form)." Plaintiff was advised that failure to complete and file the form within 30 days would result in the dismissal of this proceeding.

On December 11, 2011, plaintiff filed a "Motion in forma

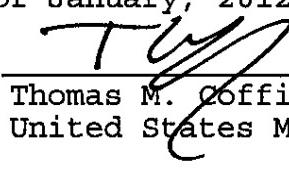
pauperis 28 USC 1915" (#12). Plaintiff's Motion (#12) should be denied.

Plaintiff has not filed a completed AO Form 239 as directed by the court.

Plaintiff's complaint (#2) should be denied without prejudice. This proceeding should be dismissed for failure to comply with the court's Order (#10).

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 11 day of January, 2012.

  
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Thomas M. Coffin  
United States Magistrate Judge